

In The United States Court of Appeals
For the Ninth Circuit

ALASKA STEAMSHIP COMPANY, a corporation,
Appellant,

vs.

M. P. MULLANEY, Commissioner of Taxation, Ter-
ritory of Alaska, *Appellee.*

UPON APPEAL FROM THE DISTRICT COURT FOR THE
TERRITORY OF ALASKA DIVISION NUMBER ONE

BRIEF OF AMICI CURIAE

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INDEX

	<i>Page</i>
Interest of Amici Curiae	1
Summary of Argument.....	2
Argument	3
The Alaska Act Is Inconsistent with the Mean- ing and Purpose of Federal Statutes.....	3
Conclusion	18
Appendix A—Shipping Commissioners' Act of 1872, Act of June 7, 1872 (17 St. at L. p. 262), Chap. CCCXXII, §§11, 6, 17.....	19
§§18, 19	20
§§22, 23	21
§§25, 26	22
§27	23
§§31, 32	24
§§33, 34, 35	25
§51	26
§§52, 55	28
§§56, 57	29
§61	30
Appendix B	30
46 U.S.C.A. §576. Penalty for omitting to begin voyage	30
46 U.S.C.A. §593. Termination of wages by loss of vessel; transportation to place of shipment..	31
46 U.S.C.A. §594. Right to wages in case of improper discharge	31
46 U.S.C.A. §595. Conduct as affecting right.....	32
46 U.S.C.A. §597. Payment at ports	32
46 U.S.C.A. §599. Advances and allotments.....	33
46 U.S.C.A. §600. Agreements as to loss of lien or right to wages	35
46 U.S.C.A. §601. Attachment or arrestment of wages; support of seaman's wife.....	36
46 U.S.C.A. §602. Limit of sum recoverable during voyage	37
46 U.S.C.A. §603. Summons for non-payment....	37

	<i>Page</i>
46 U.S.C.A. §604. Libel for wages.....	37
46 U.S.C.A. §605. Wages payable in gold	39
46 U.S.C.A. §642. Accounting as to wages.....	39
46 U.S.C.A. §701. Various offenses; penalties....	39
Appendix C	42
Alaska Net Income Tax Act—L. 1949, c. 115, eff. 3-26-49, §8	42
§12A	43
Appendix D	43
Oregon Laws 1947, Chap. 536, §110-1620a.....	43
Appendix E	44
26 U.S.C.A. §1606	44

TABLE OF CASES

<i>American-Hawaiian S. S. Co. v. Fisher</i> , 82 F. Supp. 193 (1948)	6, 7
<i>Bethlehem Steel Co. v. New York Labor Rel. Bd.</i> , 330 U.S. 767, 91 L.ed. 1234.....	4
<i>Chamberlin v. Andrews</i> , 2 N.E.(2d) 22, 106 A.L.R. 1519	3
<i>Chesapeake & O. R. Co. v. Stapleton</i> , 279 U.S. 587, 73 L.ed. 861	4, 14
<i>Cloverleaf Butter Co. v. Patterson</i> , 315 U.S. 148, 86 L.ed. 754	15
<i>Gibbons v. Ogden</i> , 9 Wheat. 1, 6 L.ed. 23.....	4
<i>Gilvary v. Cuyahoga Valley R. Co.</i> , 292 U.S. 57, 78 L.ed. 1123	4, 14
<i>Johnson v. U. S.</i> , 163 Fed. 30, 18 L.R.A. (n.s.) 1194, C.C.A. 1	12
<i>Keifer & Keifer v. R. F. C.</i> , 306 U.S. 381, 83 L.ed. 784	14
<i>Kelly v. Washington</i> , 302 U.S. 1, 82 L.ed. 3.....	4
<i>Napier v. Atlantic Coast Line R. Co.</i> , 272 U.S. 605, 71 L.ed. 432	4
<i>Prigg v. Pennsylvania</i> , 16 Pet. 539, 10 L.ed. 1060..	4, 14

TABLE OF CASES

v

Page

<i>Savage v. Jones</i> , 225 U.S. 501, 533, 56 L.ed. 1182....	14
<i>Shilman v. United States</i> , 164 F.(2d) 649 (C.C.A. 2, 1947)	6
<i>Southern Pacific Co. v. Arizona</i> , 325 U.S. 761, 89 L.ed. 1086	5, 16
<i>Southern Pacific Co. v. Jensen</i> , 244 U.S. 205, 61 L. ed. 1086	5, 16
<i>Standard Dredging Company v. Murphy</i> , 319 U.S. 306, 87 L. ed. 1416.....	3, 5
<i>Union Fish Co. v. Erickson</i> , 248 U.S. 308, 63 L.ed. 261	5
<i>Wilder v. Inter-Island Steam Navigation Co.</i> , 211 U.S. 239, 53 L.ed. 164	7, 8, 11, 16

STATUTES

Laws of Alaska, 1949, Ch. 115, Territory of Alaska, Alaska Net Income Tax Act, effective March 26, 1949.....	1, 7, 8, 10, 12, 17, 18, 19-30
New York Session Laws, 1935, §468.....	3
Oregon Laws, 1947, Ch. 536, §110-1620a.....	7
17 Stat. at L. p. 262, Act of June 7, 1872, Chap. CCCXXII Shipping Commissioner's Act of 1872 (Appendix A, page 19).....	9, 10
26 U.S.C.A. 322(a)	17
26 U.S.C.A. Sec. 1606(f) (App. E, page 44, this brief)	18, 44
26 U.S.C.A. 1622, Sec. 8, C.....	17
46 U.S.C.A., §§ 576, 594, 595, 597, 599-605, 642 and 701 (see Appendix B, pages 30-41).....	2
§§544, 563	11
46 U.S.C.A. §597	6
46 U.S.C.A. §601	5, 7
§605	12, 39



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No. 12298

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BRIEF OF AMICI CURIAE

INTEREST OF AMICI CURIAE

Amici curiae filing this brief are attorneys for plaintiffs in three actions pending in the United States District Court for the Western District of Washington, Northern Division, in all of which plaintiff crew members of ships engaged in the Alaska trade seek to enjoin the withholding from seamen's wages of the income tax imposed by the Alaska Net Income Tax Act, Laws of 1949, Chapter 115, Territory of Alaska, effective March 26, 1949. In each of those cases preliminary injunctions have been issued. In the case pending against Alaska Steamship Company the injunction requires the impounding of the tax monies. In the cases involving other companies the preliminary injunctions altogether forbid withholding. All three cases are being

held in abeyance to await the outcome of the instant case, it being recognized that the decision of the court in the instant case will undoubtedly be controlling.

In addition, *amici curiae* represent the general interests of the Sailors' Union of the Pacific and National Organization of Masters, Mates & Pilots in this litigation. The Sailors' Union of the Pacific is an organization that represents all of the unlicensed deck department crew members of all ships regularly engaged in the Alaska trade, including all ships operated by appellant Alaska Steamship Company. National Organization of Masters, Mates & Pilots represents the licensed deck department crew members of all such ships. Both organizations represent a great number of unlicensed and licensed crew members of ships engaged in other trades, so that the interests of those organizations extend beyond the Alaska trade and the Alaska statute.

SUMMARY OF ARGUMENT

The Alaska statute, so far as it attempts to impose a withholding tax upon the earnings of seamen employed by appellant, is invalid because it is in conflict with federal statutes relating to the wages of seamen and because it contravenes the purpose of Congress in enacting those statutes (46 U.S.C.A., Secs 576, 594, 595, 597, 599-605, 642 and 701, appended hereto as Appendix B, pages 30-41).

ARGUMENT

The Alaska Act Is Inconsistent with the Meaning and Purpose of Federal Statutes.

In our view, this case does not depend upon the rules relating to local action respecting a federal subject where federal law is silent. This disposes of *Standard Dredging Company v. Murphy*, 319 U.S. 306, 87 L.ed. 1416.

It may be suggested that if our argument in this brief is correct the result in *Standard Dredging Corp. v. Murphy*, 319 U.S. 306, 87 L.ed. 1416, was wrong. However, there is no inconsistency. There is nothing in the *Standard Dredging* case and companion case to indicate that the employees in question (who worked locally on a barge and floating elevator) were subject to the federal statutes for the protection of seamen hereinafter discussed nor even that the New York law under scrutiny in that case (see footnote 1 of opinion) authorized or required deductions from the pay of employees, which it did not (N.Y. Session Laws, 1935, Sec. 468, and see *Chamberlin v. Andrews*, 2 N.E. (2d) 22, 106 A.L.R. 1519). Furthermore there is no indication that anything similar to the argument we make here was brought forward in the *Standard Dredging* case, where it would have been entirely inappropriate anyway, because no deductions from wages were involved, and certainly no such argument was considered by the court. Finally, since the decision in *Standard Dredging*, the question we raise has become entirely moot as applied to unemployment compensation by reason of a change in the Federal Unemployment Compensa-

tion Act (26 U.S.C.A., Sec. 1606(f)), appended hereto as Appendix E, pages 44-45. By the change we have just mentioned, Congress has specifically authorized deductions from seamen's wages for contribution to state unemployment compensation funds, but allows only one jurisdiction to make the deductions as to each ship.

There is another principle more closely related to our argument but, we believe, separate from it, except for a useful analogy. We refer to the doctrine that Congress by occupying a field may preclude state action that would otherwise be permissible. The rule to which we now refer is not invoked where there is a direct conflict (see *Kelly v. Washington*, 302 U.S. 1, 82 L.ed. 3), but where, in the absence of direct conflict, federal laws are found that are so comprehensive as to manifest an intention to assume completely the control of the subject and by implication all action other than congressional action is prohibited. This rule is developed and expressed in cases such as:

Gibbons v. Ogden, 9 Wheat. 1, 6 L.ed. 23;
Prigg v. Pennsylvania, 16 Pet. 539, 10 L.ed. 1060;

Chesapeake & O. R. Co. v. Stapleton, 279 U.S. 587, 73 L.ed. 861;

Napier v. Atlantic Coast Line R. Co., 272 U.S. 605, 71 L.ed. 432;

Gilvary v. Cuyahoga Valley R. Co., 292 U.S. 57, 78 L.ed. 1123;

Bethlehem Steel Co. v. New York Labor Rel. Bd., 330 U.S. 767, 91 L.ed. 1234.

We do not even have to consider here whether and when the existence of general maritime rules as distinguished from statutes may preclude state action, a possibility recognized by *Standard Dredging Corp. v. Murphy*, 319 U.S. 306, 87 L.ed. 1416, and supported by *Union Fish Co. v. Erickson*, 248 U.S. 308, 63 L.ed. 261, and by *Southern P. Co. v. Jensen*, 244 U.S. 205, 61 L.ed. 1086, read with the suggested interpretation found in *Standard Dredging Corp. v. Murphy*, *supra*. The federal laws that we set against the Alaska act are all statutes enacted by Congress.

The point we wish to make in this brief is simply that the withholding provisions of the Alaska statute are, as applied to seamen, inconsistent with the meaning of federal statutes dealing with seamen's wages and with the purpose of those statutes. The meaning and the purpose are necessarily interwoven, but so far as practicable we will separately discuss the two aspects. The meaning and effect of the federal statutes are that all deductions from a seaman's wages, except those specifically authorized, are prohibited. Further, the *enforcement* of the withholding provisions of the Alaska act is prohibited as an "arrestment or attachment" under 46 U.S.C.A. 601. And, if the meaning and effect fall short of those results, the Congressional purpose certainly does not, and it is equally effective to nullify the withholding provisions of the Alaska act as applied to seamen. The federal statutes to which we refer are cited in our Summary of Argument and quoted in Appendix B, of this brief, pages 30-41.

Certain decisions squarely support the view that

there is a direct conflict between the Alaska statutory provisions in question and the federal statutes for the protection of seamen we have cited.

In *Shilman v. United States*, 164 F. (2d) 649 (C.C.A. 2, 1947), the court, after reviewing certain of the federal statutes dealing with wages of seamen, said:

“The above sections look towards payment to the seaman by his employer, at the termination of the employment, of all his earned wages, without any deductions except those expressly authorized by statute.”

Some of the statutory provisions mentioned by the court apply to discharges in a foreign port, but the provisions relied upon merely require that in such instance *all wages that are due be paid* in the presence of the U.S. consul and charge the consul with the duty of enforcing the right. And 46 U.S.C.A. Sec. 597, applicable to all domestic discharges, specifies that *every* seaman “when the voyage is ended * * * shall be entitled to the remainder of the wages which shall be then due him,” which certainly amounts to the same thing.

In *American-Hawaiian S. S. Co. v. Fisher*, 82 F. Supp. 193 (1948), the Oregon District Court, in holding the Oregon State income tax unconstitutional as applied to seamen said that federal statutes “specify that no deductions shall be made from seamen except as authorized by federal law.”

If these interpretations of the federal statutes are correct, the withholding provisions of the Alaska statute obviously can have no application to the seamen employees of appellant.

In addition to the foregoing, the court in *American Hawaiian S. S. Co. v. Fisher, supra*, said:

“In particular, 46 U.S.C.A. Sec. 601, prohibits the attachment of the wages of seamen and provides that every payment of wages to a seaman shall be valid, notwithstanding any previous sale or assignment thereof or any attachment encumbrance or arrestment thereon. Said provisions of the law of the United States are the supreme law of the land pursuant to Clause 2, Article VI of the Constitution of the United States.”

Under both the Oregon statute and the Alaska statute (Sec. 8D (1)), an employer who does not deduct the specified tax from the employee's wage is liable to the creditor State or Territory and, in practical effect, this is indistinguishable from garnishment and garnishment is prohibited under the designation “attachment” in 46 U.S.C.A. 601, as *Wilder v. Inter-Island Steam Navigation Co.*, 211 U.S. 239, 53 L.ed. 164, hereinafter discussed, makes doubly clear. In fact, the Oregon and Alaska statutes, so far as material to this case, are substantially the same, as will readily appear from comparison of the pertinent parts quoted in the appendix of this brief (Appendix C and D, pages 42 and 43).

The only distinction between the withholding provision of the Alaska statute and the ordinary garnishment is that the Alaska statute imposes the withholding burden upon the employer prior to the institution of any court proceeding, whereas, a garnishment does not bind the employer to withhold until the writ has issued and been served, but this distinction

certainly is artificial rather than substantial. In either case, the wage is applied by force of law and legal process to a debt (see Sec. 12A of Alaska act, our Appendix C, page 43, which expressly characterizes the tax obligation a debt).

The Oregon court's view that the withholding provision of the tax statute would amount to an attachment of wages is further supported by the decision of the United States Supreme Court in *Wilder v. Inter-Island Steam Navigation Co.*, 211 U. S. 239, 53 L.ed. 164. The question in that case was whether the prohibition against "arrestment and attachments" precludes garnishment (called an attachment in the Hawaiian statute under consideration) of seamen's wages *after* judgment against the seaman. The court said:

"Neither of the words used in the statute, 'attachment' or 'arrestment,' considered literally, has reference to executions or proceedings in aid of executions to subject property to the payment of judgments, but refers, as we have seen, to the process of holding property to abide the judgment. But we are of opinion that the statute is not to be too narrowly construed, but rather to be liberally interpreted with a view to effecting the protection intended to be extended to a class of persons whose improvidence and prodigality have led to legislative provisions in their favor, and which has made them, as Mr. Justice Story declared, 'the wards of admiralty.' *Harden v. Gordan*, 2 Mason 541, Fed. Cas. No. 6,047."

Then, after discussing the various statutes enacted to protect the seaman against his own improvidence

and restricting his right to make wage assignments, the court said:

“Furthermore, there are other sections in the title which strongly support the conclusion that it was not intended that seamen’s wages should be seized upon execution or attachment to collect judgments rendered at common law.”

After reviewing the sections to which the last quotation relates the court said:

“We think that these provisions, read in connection with §4536, necessitate the conclusion that it was intended not only to prevent the seaman from disposing of his wages by assignments or otherwise, but to preclude the right to compel a forced assignment, by garnishee or other similar process, which would interfere with the remedy in admiralty for the recovery of his wages by condemnation of the ship.”

We believe that the foregoing interpretations of the federal statutes gain support from a consideration of the manner in which the federal statutes came into being. We are now referring to the fact that Congress enacted in *one piece of legislation* the comprehensive Shipping Commissioner’s Act of 1872 (17 Stat. at L. p. 262, Act of June 7, 1872, Chap. CCCXXII) (Appendix A, pages 19-30). This Act, the pertinent parts of which we have quoted in the Appendix of this brief, prohibited the receipt of money for providing a seaman with employment (Sec. 11), required all stipulations for allotments, if made at the commencement of a voyage, to be inserted in the employment agreement (Sec. 16), prohibited advances or advance security by seamen, except to the sea-

man himself, or to his wife or mother, and required all deductions to be kept in the log book (Sec. 23), protected him against voluntary abandonment of rights as to wages (Sec. 31); provided that wages do not depend on freight (Sec. 32), and that wages terminate with loss of the ship (Sec. 33), and are not payable if the seaman improperly refuses to work or is lawfully imprisoned (Sec. 34), provided for prompt payment of wages and a penalty for delay (Sec. 35), provided for deductions by way of forfeiture for misconduct (Sec. 51), but strictly regulated the manner of imposition (Sec. 52), provided for the disposition of wages forfeited for desertion (Sec. 55), and for the determination of questions concerning forfeitures or deductions (Sec. 56), provided for a limited reimbursement from seamen's wages for costs incurred by the master for procuring a seaman's conviction (Sec. 57), prohibited attachment of seamen's wages and assignments and sales of wages except advance securities provided for by the Act (Sec. 61), and, generally, provided for the enforcement of the seaman's rights respecting wages and deductions therefrom through the establishment of Shipping Commissioners. This act has, of course, been amended many times, but certainly the amendments evidence no intention to narrow the protection afforded seamen. Further the act was imposed upon random generic laws, so that the complete effect at the time of enactment was to produce an even more comprehensive coverage than our summary shows. What we believe to be all of the current federal statutes dealing to the subject matter are appended hereto as Appendix B, pages 30-41. Of those sections quoted in

Appendix B, all except Section 701 are applicable to the crew members employed by appellant in the coast-wise Alaska trade, and all of the sections are applicable to all crew members employed by appellant in any other Alaska trade. We make this statement in the light of Sections 544 and 563 of Title 46 U.S.C.A.

The adoption of this comprehensive plan at one time is certainly more significant evidence of a legislative purpose fully to cover the field of permissible deductions and charges against seamen's wages than a gradual accumulation of fragmentary legislation would be. Congress prohibited "attachments and arrestments," advancements, and allotments, subject to specified exceptions, and made strict provision for penalties and forfeitures resulting in wage deductions. As the Supreme Court said in the *Wilder* case, *supra*, this enactment evidenced an intention to secure to the seaman his wages, and a remedy in an admiralty court for his wages, without permitting any action that might in effect impair or nullify those rights. In order to accomplish this purpose, Congress specifically mentioned and prohibited or restricted all deductions from and charges against seamen's pay. We are quite certain that a withholding provision such as contained in the Alaska statute was not mentioned only because not conceived, or at least not conceived as a practical possibility, by members of Congress in 1872.

We may profitably look at this problem from another aspect. By specific provision in the Alaska law

the tax is a debt (Section 12A, Alaska Act, our Appendix C page 43). If there were no withholding provision in the act, we believe it is clear that Alaska could not collect the tax by garnishment of wages. From this standpoint it seems incredible that Alaska could accomplish the same result by imposing the distraint, if such it may be called, prior to court action.

It seems to us that Section 605 of Title 46, U.S.C. A., strongly supports the inference of a prohibition against deductions not specifically authorized, as drawn from other sections of Title 46. Section 605 provides that when a seaman is paid under the direction of a consular officer or agent at any foreign port or place he shall be paid in gold or its equivalent "without any deduction whatever." We take it that this section confirms our view that Congress intended that every question concerning deductions from a seaman's pay shall be saved until the seaman has the aid of a Shipping Commissioner and access to a convenient admiralty court. Thus, Congress has said that where a seaman is discharged in a foreign port and therefore does not have access to a Shipping Commissioner or United States admiralty court, *no* deduction may be made.

Knowing the purpose of Congress, the Alaska statute should not be sanctioned as applied to seamen merely because an artificial basis has been created to distinguish it from the things expressly prohibited. A statement by Mr. Justice Holmes in *Johnson v. U. S.*, 163 Fed. 30, 32, 18 L.R.A. (n.s.) 1194, C.C.A. 1, is most apt:

"A statute may indicate or require as its jus-

tification a change in the policy of the law, although it expresses that change only in the specific cases most likely to occur to the mind. The legislature has the power to decide what the policy of the law shall be, and if it has intimated its will, however indirectly, that will should be recognized and obeyed. The major premise of the conclusion expressed in a statute, the change of policy which induces the enactment, may not be set out in terms but it is not an adequate discharge of duty for the courts to say: 'We see what you are driving at, but you have not said it and, therefore, we shall go on as before.'"

This quotation is found in a footnote to *Keifer & Keifer v. R. F. C.*, 306 U.S. 381, 83 L.ed. 784, together with other authorities conveying a similar thought.

The foregoing quotation has peculiar force when applied to the instant case because here the problem is not merely what the acts of Congress mean, but what Congress purposed. Even if the meaning and effect of the federal statutes in question fall short of what we have claimed, surely we have not overstated the congressional intent. We would judge from what Mr. Justice Holmes has said, that, the congressional purpose being known, the statutes should be given meaning and effect, or rules of decision adopted, that effectuate such purpose. However, that particular question cannot possibly arise here because, even if the congressional intent has not been carried into general effect, the *purpose* of Congress precludes any inconsistent local legislation.

The cases involving the principle that the occupation of a field by Congress will preclude state action even as to details not touched upon by the federal law substantiate what we have just said as to the effectiveness of congressional *purpose* as a bar to local action. The theory of the cases involving the doctrine of congressional occupation of a given field is that where Congress has dealt comprehensively with a certain Federal subject and thereby indicated its intention to assume complete control of the subject matter "its silence as to what it does not do is as expressive of what its intention is as the direct provisions made by it." (Quoted in *Chesapeake & O. R. Co. v. Stapleton*, 279 U.S. 587, 73 L.ed. 861, from *Prigg v. Penn.*, 16 Pet. 539, 617, 10 L.ed. 1060, 1089.)

In *Gilvary v. Cuyahoga Valley R. Co.* 292 U.S. 57, 78 L.ed. 1123, the court said that "the purpose exclusively to regulate need not be specifically declared" and, as respects Federal Safety Appliance Acts,

"So far as the safety equipment of such vehicles is concerned, these Acts operate to exclude state regulation whether consistent, complementary, additional or otherwise."

citing *Prigg v. Penn.*, *supra*, and other cases.

In *Savage v. Jones*, 225 U.S. 501, 533, 56 L.ed. 1182, 1195, the court said:

"For when the question is whether a federal act overrides a state law, the entire scheme of the statute must, of course, be considered, and that which needs must be implied is of no less force than that which is expressed. If the purpose of the act cannot otherwise be accomplished

—if its operation within its chosen field else must be frustrated and its provisions refused their natural effect—the state law must yield to the regulation of Congress within the sphere of its delegated power.”

In *Cloverleaf Butter Co. v. Patterson*, 315 U.S. 148, 155, 86 L.ed. 754, 762, the court said:

“Where this power to legislate exists, it often happens that there is only a partial exercise of that power by the federal government. In such cases the state may legislate freely upon those phases of the commerce which are left unregulated by the nation. But where the United States exercises its power of legislation so as to conflict with the regulation of the state, either specifically or by implication, the state legislation becomes inoperative and the federal legislation exclusive in its application.

“When the prohibition of state action is not specific but inferable from the scope and purpose of the federal legislation, it must be clear that the federal provisions are inconsistent with those of the state to justify the thwarting of state regulation.”

There is a helpful analogy in many of the cases dealing with the inhibition upon local action respecting certain federal subjects even where there is complete silence in the federal law. Certain of those cases, and perhaps most of them, base the inhibition upon the presumed, though unexpressed, intent of Congress. Such cases are collected in *Southern Pacific Co. v. Arizona*, 325 U.S. 761, 768, 89 L.ed. 1915, 1924. Here again, Congress’ unexpressed, but inferred, intent forestalls state action.

Thus, so much of *Southern Pacific Co. v. Jensen*, 244 U.S. 205, 61 L.ed. 1086, as declares that the states lack power

“to contravene the essential purposes of, or to work material injury to, characteristic features of (the maritime) law”

is still sound, however much the views expressed in the opinion may now be limited in other respects.

In the cases relating to occupation of the field by Congress, and, for that matter in the cases holding complete silence of Congress as to certain subjects implies a prohibition, there is a general negative inference. We mean that there is an implied prohibition against any regulation of the subject matter by local authority. In the instant case the implication is affirmative and, besides, it is not drawn *a priori* from the statutes but is forced into view by the United States Supreme Court in *Wilder v. Inter-Island Steam Navigation Co.*, 211 U.S. 239, 53 L.ed. 164. Congress, according to the Supreme Court, affirmatively disapproves of charges imposed here and there against a seaman's wages and, instead, has closely restricted wage deductions and carefully shielded the seaman's wages until he comes to the port of discharge where he is to be assisted by a federal official, the Shipping Commissioner, and is to have ready access and summary relief in the admiralty courts.

The *Wilder* case asserts the intention of Congress jealously to protect the wages of seamen against deductions and charges until they reach the seaman's pocket and we should bear in mind that the guarantee

stated in the *Wilder* case of a right of access to an admiralty court for an adjudication of all matters pertaining to wages was even more than a guarantee of access to a court of that kind for such purposes. It was the obvious intention to give seamen the aid of Shipping Commissioners and access to a convenient and sympathetic forum at a convenient time to litigate questions pertaining to wages.

A seaman cannot go back to jurisdiction after jurisdiction he has touched to contest charges against his pay. In this respect a statute such as the Alaska act falls afoul of the plain intent and meaning of the federal laws. If the Alaska act be sustained, a seaman on an American ship may theoretically have income tax deductions in twenty or more states and territories (and, practically, in perhaps ten) and be hopelessly handicapped in any adjustments of the tax. Both as a technical and a practical matter it is not sufficient to say that the shipowner should not deduct the tax unless it is properly due. As well say that a suitor and court should not attach wages unless the claim is just and accurately stated. So far as there is any difference it is a difference in degree. In fact, as we read the Alaska act (Sec. 8, C, borrowing 26 U.S.C.A. 1622, which incorporates 26 U.S.C.A. 322(a)), payment to the taxing authority would work an acquittance as far as the ship-owner is concerned so that the seaman would have to take up his troubles with the Territory of Alaska or, if we assume the enactment of such a tax in other jurisdictions, with the various taxing authorities involved. Furthermore, self interest would influence the employer to

favor the Territory rather than the seaman, because the employer is subject to penalties if he does not withhold enough but there is no penalty for withholding too much.

We would assume that if and when Congress is prepared to sanction withholding from seamen's pay of local income taxes it will enact some appropriate legislation that probably will follow along the lines of the policy laid down respecting local unemployment compensation deductions. By 26 U.S.C.A. Sec. 1606 (f) (App. E, pages 44-45, this brief) only one state, the state from which a ship's operations are directed, may impose unemployment compensation charges, but it may impose such charges as to all services by members of the crew of such ship no matter where performed.

CONCLUSION

Section 8 of the Alaska act is inconsistent with the meaning and purpose of the acts of Congress designed to protect the wages of seamen. It is, therefore, plainly invalid and its enforcement should be enjoined.

Respectfully submitted,

JOHN GEISNESS,

BASSETT & GEISNESS

Amici Curiae

APPENDIX A

Shipping Commissioners' Act of 1872

Act of June 7, 1872 (17 St. at L. p. 262), Chap. CCCXXII.—An Act to authorize the Appointment of Shipping-commissioners by the several Circuit Courts of the United States, to superintend the Shipping and Discharge of Seamen engaged in Merchant Ships belonging to the United States, and for the further Protection of Seamen.

SEC. 11. That if any person shall demand or receive, either directly or indirectly, from any seaman seeking employment as a seaman, or from any other person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall, for every such offence, incur a penalty not exceeding one hundred dollars.

SEC. 16. That all stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made, and the persons to whom such payments are to be made.

SEC. 17. That no advance of wages shall be made or advance security given to any person but to the seaman himself, or to his wife or mother; and no advance of wages shall be made, or advance security given, unless the agreement contains a stipulation for the same, and an accurate statement of the amount

thereof; and no advance wages or advance security shall be given to any seaman except in the presence of the shipping-commissioner.

SEC. 18. That if any advance of wages is made or advance security given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or promised; and in the case of any advance security so given no person shall be sued thereon unless he was a party to such breach.

SEC. 19. That whenever any advance security is discounted for any seaman, such seaman shall sign or set his mark to a receipt indorsed on the security, stating the sum actually paid or accounted for to him by the person discounting the same; and if the seaman sails in the ship from the port of departure mentioned in the security, and is then duly earning his wages, or is previously discharged with the consent of the master, but not otherwise, the person discounting the security may, ten days after the final departure of the ship from the said port of departure mentioned in the security, sue for and recover the amount promised by the security, with costs, either from the owner or from any agent who has drawn or authorized the drawing of the security, in any justice's or other competent court; and in any such proceeding it shall be sufficient for such person to prove the security was given by the owner or master, or some other authorized agent, and that the same was discounted to and receipted by the seaman, and the seaman shall be presumed to have sailed in

the ship from such port as aforesaid, and to be duly earning his wages, unless the contrary is proved.

SEC. 22. That all seamen discharged in the United States from merchant ships engaged in voyages as described in section twelve of this act shall be discharged and receive their wages in the presence of a duly authorized shipping-commissioner under this act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any such seaman belonging thereto, or, except as aforesaid, pays his wages within the United States in any other manner, shall incur a penalty not exceeding fifty dollars.

SEC. 23. That every master shall, not less than forty-eight hours before paying off or discharging any seaman, deliver to him, or if he is to be discharged before a shipping-commissioner, to such shipping-commissioner, a full and true account of his wages, and all deductions to be made therefrom on any account whatsoever; and in default shall, for each offence, incur a penalty not exceeding fifty dollars; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed, unless it is included in the account delivered; and the master shall, during the voyage, enter the various matters in respect to which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, to be called the "Official Log-book," as hereinafter provided, and shall, if required, produce such book at the time of the payment of wages, and, also, upon

the hearing, before any competent authority, of any complaint or question relating to such payment.

SEC. 25. That every shipping-commissioner shall hear and decide any question whatsoever between a master, consignee, agent, or owner, and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceedings which may be taken in the matter, before any court of justice, be deemed to be conclusive as to the rights of parties, and any document purporting to be under the hand and official seal of a commissioner, such submission or award shall be prima-facie evidence thereof.

SEC. 26. That in any proceeding relating to the wages, claims, or discharge of any seaman, carried on before any shipping-commissioner, under the provisions of this act, such shipping-commissioner may call upon the owner, or his agent, or upon the master, or any mate, or any other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power, relating to any matter in question in such proceedings, and may call before him and examine any of such persons, being then at or near the place, on any such matter; and every owner, agent, master, mate, or other member of the crew, who, when called upon by the shipping-commissioner, does not produce any such books, papers, or documents as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable cause for such a default, for each offence incur a penalty not exceed-

ing one hundred dollars, and, on application being made by the shipping-commissioner, shall be further punished, in the discretion of the court, as in other cases of contempt of the process of the court.

SEC. 27. That the following rules shall be observed with respect to the settlement of wages, that is to say: First, upon the completion, before a shipping-commissioner, of any discharge and settlement, the master or owner and each seaman respectively, in the presence of the shipping-commissioner, shall sign a mutual release of all claims for wages in respect of the past voyage or engagement, and the shipping-commissioner shall also sign and attest it, and shall retain it in a book to be kept for that purpose: *PROVIDED*, That both the master and seaman assent to such settlement, or the settlement has been adjusted by the shipping-commissioner; secondly, such release so signed and attested shall operate as a mutual discharge and settlement of all demands for wages between the parties thereto, on account of wages, in respect of the past voyage or engagement; thirdly, a copy of such release, certified under the hand and seal of such shipping-commissioner to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy; fourthly, in cases in which discharge and settlement before a shipping-commissioner are hereby required, no payment, receipt, settlement, or discharge otherwise made, shall operate as evidence of

the release or satisfaction of any claim; fifthly, upon payment being made by a master before a shipping-commissioner, the shipping-commissioner shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, between the master and his employer, be received as evidence that he has made the payments therein mentioned.

SEC. 31. That no seaman shall by any agreement other than is provided by this act forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this act, and every stipulation by which any seaman consents to abandon his right to his wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

SEC. 32. That no right to wages shall be dependent on the earning of freight by the ship, and every seaman and apprentice who would be entitled to demand and receive any wages if the ship on which he has served and earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same of the master or owner in personam, notwithstanding that freight has not been earned; but in all cases of wreck or loss of ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

SEC. 33. That in cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the wreck or loss of the ship, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period.

SEC. 34. That no seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

SEC. 35. That the master or owner of any ship making voyages as hereinbefore described in section twelve of this act, except foreign-going ships, shall pay to every seaman his wages within two days after the termination of the agreement, or at the time such seaman is discharged, whichever first happens; and in the case of foreign-going ships, within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and in all cases the seaman shall, at the time of his discharge, be entitled to be paid, on account, a sum equal to one-fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective peri-

ods aforesaid; and such sum shall be recoverable as wages in any claim made before the court; *PROVIDED*, That this section shall not apply to the masters or owners of any vessel where the seaman is entitled to share in the profits of the cruise or voyage.

SEC. 51. That whenever any seaman who has been lawfully engaged, or any apprentice to the sea service, commits any of the following offences, he shall be liable to be punished as follows, that is to say: first, for desertion, he shall be liable to imprisonment for any period not exceeding three months, and also to forfeit all or any part of the clothes or effects he leaves on board, and all or any part of the wages or emoluments which he has then earned; secondly, for neglecting and refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave, and without sufficient reason, from his ship, or from his duty, not amounting to desertion, or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding one month, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and, in addition, for every twenty-four hours of absence, either a sum not exceeding six day's pay, or any expenses which have been properly incurred in hiring a substitute; thirdly, for quitting the ship without leave after her arrival at her port of delivery, and before she is placed in security, he

shall be liable to forfeit out of his wages a sum not exceeding one month's pay; fourthly, for wilful disobedience to any lawful command, he shall be liable to imprisonment for any period not exceeding two months, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding four days' pay; fifthly, for continued willful disobedience to lawful commands, or continued willful neglect of duty, he shall be liable to imprisonment for any period not exceeding six months, and also, at the discretion of the court to forfeit, for every twenty-four hours continuance of such disobedience or neglect, either a sum not exceeding twelve days' pay, or any expenses which have been properly incurred in hiring a substitute; sixthly, for assaulting any master or mate, he shall be liable to imprisonment for any period not exceeding two years; seventhly, for combining with any other or others of the crew to disobey lawful commands or to neglect duty, or to impede navigation of the ship, or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve months; eighthly, for willfully damaging the ship or embezzling or wilfully damaging any of the stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve months; ninthly, for any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay such master or owner such a sum as is sufficient to reimburse the master

or owner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability, and shall also be liable to imprisonment for a period not exceeding twelve months.

SEC. 52. That upon the commission of any of the offences enumerated in that last preceding section, an entry thereof shall be made in the official log-book, and shall be signed by the master, and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceedings the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

SEC. 55. That all clothes, effects, and wages which, under the provisions of this act, are forfeited for desertion, shall be applied, in the first instance, in payment of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and the balance (if any)

shall be paid by the master or owner to any shipping-commissioner resident at the port at which the voyage of such ship terminates; and the shipping-commissioner shall account to and pay over such balance to the judge of the circuit court within one month after said commissioner receives the same, to be disposed of by him in the same manner as is hereinbefore provided for the disposal of the money, effects, and wages of deceased seamen; in all other cases of forfeiture of wages, under the provisions hereinbefore contained, the forfeiture shall be for the benefit of the master or owner by whom the wages are payable; and in case any master or owner neglects or refuses to pay over to the shipping-commissioner such balance aforesaid, he shall incur a penalty of double the amount of such balance, which shall be recoverable by the commissioner in same manner that seamen's wages are recovered.

SEC. 56. That any question concerning the forfeiture of, or deductions from, the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

SEC. 57. That whenever in any proceeding relating to seamen's wages, it is shown that any seaman or apprentice has, in the course of the voyage, been convicted of any offence by any competent tribunal, and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct

a part of the wages due to such seaman, not exceeding fifteen dollars, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

SEC. 61. That no wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same, except such advanced securities as are provided for in this act.

APPENDIX B

46 U.S.C.A. §576. Penalty for omitting to begin voyage.

At the foot of every such contract to ship upon such a vessel of the burden of fifty tons or upward there shall be a memorandum in writing of the day and the hour when such seaman who shipped and subscribed shall render himself on board to begin the voyage agreed upon. If any seaman shall neglect to render himself on board the vessel for which he has shipped at the time mentioned in such memorandum without giving twenty-four hours' notice of his inability to do so, and if the master of the vessel shall, on the day in which such neglect happened, make an entry in the log book of such vessel of the name of such seaman, and shall in like manner note the time that he so neglected to render himself after the time

appointed, then every such seaman shall forfeit for every hour which he shall so neglect to render himself one-half of one day's pay, according to the rate of wages agreed upon, to be deducted out of the wages. If any such seaman shall wholly neglect to render himself on board of such vessel, or having rendered himself on board shall afterwards desert, he shall forfeit all of his wages or emoluments which he has then earned. This section shall not apply to fishing or whaling vessels or yachts.

46 U.S.C.A. §593. Termination of wages by loss of vessel; transportation to place of shipment.

In cases where the service of any seaman terminates before the period contemplated in the agreement, by reason of the loss or wreck of the vessel, such seaman shall be entitled to wages for the time of service prior to such termination, but not for any further period. Such seaman shall be considered as a destitute seaman and shall be treated and transported to port of shipment as provided in sections 678, 679, and 681 of this title. This section shall apply to fishing and whaling vessels but not to yachts.

46 U.S.C.A. §594. Right to wages in case of improper discharge.

Any seaman who has signed an agreement and is afterward discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, a sum equal in amount to one

month's wages as compensation, and may, on adducing evidence satisfactory to the court hearing the case, of having been improperly discharged, recover such compensation as if it were wages duly earned.

46 U.S.C.A. §595. Conduct as affecting right.

No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, after the time fixed by the agreement for him to begin work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offense committed by him.

46 U.S.C.A. §597. Payments at ports.

Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs one-half part of the balance of his wages earned and remaining unpaid at the time when such demand is made at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended, and all stipulations in the contract to the contrary shall be void: *PROVIDED*, Such a demand shall not be made before the expiration of, nor oftener than once in five days nor more than once in the same harbor on the same entry. Any failure on the part of the master to comply with this demand shall release the seaman from his contract and he shall be entitled to full payment of wages earned. And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall be then due him, as provided in the preceding section:

PROVIDED FURTHER, That notwithstanding any release signed by any seaman under section 644 of this title any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require: *AND PROVIDED FURTHER*, That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement. This section shall not apply to fishing or whaling vessels or yachts.

46 U.S.C.A. §599. Advances and allotments.

(a) It shall be unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order, or note, or other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25 nor more than \$100, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment, whether made within or without the United States or territory subject to the jurisdiction thereof, shall in no case except as herein provided absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or

action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment, as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than \$500.

(b) It shall be lawful for any seaman to stipulate in his shipping agreement for an allotment of any portion of the wages he may earn to his grandparents, parents, wife, sister, or children, or for deposits to be made in an account opened by him and maintained in his name either at a savings bank or a United States postal savings depository subject to the governing regulations thereof.

(c) No allotment shall be valid unless in writing and signed by and approved by the shipping commissioner. It shall be the duty of the said commissioner to examine such allotments and the parties to them and enforce compliance with the law. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement and shall state the amounts and times of the payments to be made and the persons to whom the payments are to be made, or by directing the payments to be made to a savings bank or a United States postal savings depository in an account maintained in his name.

(d) No allotment except as provided in this sec-

tion shall be legal. Any person who shall falsely claim to be such relation, as above described, or to be a savings bank or a United States postal savings depository and as such an allottee of the seaman under this section shall for every such offense be punished by a fine not exceeding \$500 or imprisonment not exceeding six months, at the discretion of the court.

(e) This section shall apply as well to foreign vessels while in waters of the United States, as to vessels of the United States, and any master, owner, consignee, or agent of any foreign vessel who has violated its provisions shall be liable to the same penalty that the master, owner, or agent of a vessel of the United States would be for similar violation.

The master, owner, consignee, or agent of any vessel of the United States, or of any foreign vessel seeking clearance from a port of the United States, shall present his shipping articles at the office of clearance, and no clearance shall be granted any such vessel unless the provisions of this section have been complied with.

(f) Under the direction of the Secretary of Commerce the Director of the Bureau of Marine Inspection and Navigation shall make regulations to carry out this section. This section shall not apply to fishing or whaling vessels or yachts.

46 U.S.C.A. §600. Agreements as to loss of lien or right to wages.

No seaman shall, by any agreement other than is provided by sections 541-543, 545-549, 561, 562, 564-571, 574-578, 591-597, 600, 602-605, 621-628, 641-643, 644, 645, 651-660, 661-669, 674-679, 682-685,

701-710, and 711-713 of this title, forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of such sections, and every stipulation by which any seaman consents to abandon his right to his wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

46 U.S.C.A. §601. Attachment or arrestment of wages; support of seaman's wife.

No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court, and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of wages or of any attachment, encumbrance, or arrestment thereon; and no assignment or sale of wages or of salvage made prior to the accruing thereof shall bind the party making the same, except such allotments as are authorized by this title. This section shall apply to fishermen employed on fishing vessels as well as to seamen: *PROVIDED*, That nothing contained in this or sections 80, 569, 596, 597, 599, 656, 673, 701, 703, 712, and 713 of this title shall interfere with the order by any court regarding the payment by any seaman of any part of his wages for the support and maintenance of his wife and minor children.

46 U.S.C.A. §602. Limit of sum recoverable during voyage.

No sum exceeding \$1 shall be recoverable from any seaman, by any one person, for any debt contracted during the time such seaman shall actually belong to any vessel, until the voyage for which such seaman engaged shall be ended.

46 U.S.C.A. §603. Summons for non-payment.

Whenever the wages of any seaman are not paid within ten days after the time when the same ought to be paid according to the provisions of sections 541-543, 545-549, 561, 562, 564-571, 574-578, 591-597, 600, 602-605, 621-628, 641-643, 644, 645, 651-660, 661-669, 674-679, 682-685, 701-710, and 711-713 of this title, or any dispute arises between the master and seamen touching wages, the district judge for the judicial district where the vessel is, or in case his residence be more than three miles from the place, or he be absent from the place of his residence, then, any judge or justice of the peace, or any United States commissioner, may summon the master of such vessel to appear before him, to show cause why process should not issue against such vessel, her tackle, apparel, and furniture, according to the course of admiralty courts, to answer for the wages.

46 U.S.C.A. §604. Libel for wages.

If the master against whom such summons is issued neglects to appear, or, appearing, does not show that the wages are paid or otherwise satisfied or forfeited, and if the matter in dispute is not forthwith settled, the judge or justice or United States commis-

sioner shall certify to the clerk of the district court that there is sufficient cause of complaint whereon to found admiralty process; and thereupon the clerk of such court shall issue process against the vessel. In all cases where the matter in demand does not exceed \$100 the return day of the monition or citation shall be the first day of a stated or special session of court next succeeding the third day after the service of the monition or citation, and on the return of process in open court, duly served, either party may proceed therein to proofs and hearing without other notice, and final judgment shall be given according to the usual course of admiralty courts in such cases. In such suits all the seamen having cause of complaint of the like kind against the same vessel may be joined as complainants, and it shall be incumbent on the master to produce the contract and log book, if required to ascertain any matter in dispute; otherwise the complainants shall be permitted to state the contents thereof, and the burden of proof of the contrary shall be on the master. But nothing herein contained shall prevent any seaman from maintaining any action at common law for the recovery of his wages, or having immediate process out of any court having admiralty jurisdiction wherever any vessel may be found, in case she shall have left the port of delivery where her voyage ended before payment of the wages, or in case she shall be about to proceed to sea before the end of the ten days next after the day when such wages are due, in accordance with section 596 of this title. This section shall not apply to fishing or whaling vessels or yachts.

46 U.S.C.A. §605. Wages payable in gold.

Moneys paid under the laws of the United States, by direction of consular officers or agents, at any foreign port or place, as wages, extra or otherwise, due American seamen, shall be paid in gold or its equivalent, without any deduction whatever, any contract to the contrary notwithstanding.

46 U.S.C.A. §642. Accounting as to wages.

Every master shall, not less than forty-eight hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping commissioner, to such shipping commissioner, a full and true account of his wages, and all deductions to be made therefrom on any account whatsoever; and in default shall, for each offense, be liable to a penalty of not more than \$50. No deduction from the wages of any seaman except in respect of some matter happening after such delivery shall be allowed, unless it is included in the account delivered; and the master shall, during the voyage, enter the various matters in respect to which such deductions are made, with the amounts of the respective deductions as they occur, in the official log book, and shall, if required, produce such book at the time of the payment of wages, and, also, upon the hearing, before any competent authority, of any complaint or question relating to such payment.

46 U.S.C.A. §701. Various offenses; penalties.

Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits

any of the following offenses, he shall be punished as follows:

First. For desertion, by forfeiture of all or any part of the clothes or effects he leaves on board and of all or any part of the wages or emoluments which he has then earned.

Second. For neglecting or refusing without reasonable cause to join his vessel or to proceed to sea in his vessel, or for absence without leave at any time within twenty-four hours of the vessel's sailing from any port, either at the commencement or during the progress of the voyage, or for absence at any time without leave and without sufficient reason from his vessel and from his duty, not amounting to desertion, by forfeiture from his wages of not more than two days' pay or sufficient to defray any expenses which shall have been properly incurred in hiring a substitute.

Third. For quitting the vessel without leave, after her arrival at the port of her delivery and before she is placed in security, by forfeiture from his wages of not more than one month's pay.

Fourth. For willful disobedience to any lawful command at sea, by being, at the option of the master, placed in irons until such disobedience shall cease, and upon arrival in port by forfeiture from his wages of not more than four days' pay, or, at the discretion of the court, by imprisonment for not more than one month.

Fifth. For continued willful disobedience to lawful

command or continued willful neglect of duty at sea, by being, at the option of the master, placed in irons, on bread and water, with full rations every fifth day, until such disobedience shall cease, and upon arrival in port by forfeiture, for every twenty-four hours' continuance of such disobedience or neglect, of a sum of not more than twelve days' pay, or by imprisonment for not more than three months, at the discretion of the court.

Sixth. For assaulting any master, mate, pilot, engineer, or staff officer, by imprisonment for not more than two years.

Seventh. For willfully damaging the vessel, or embezzling or willfully damaging any of the stores or cargo, by forfeiture out of his wages of a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, by imprisonment for not more than twelve months.

Eighth. For any act of smuggling for which he is convicted and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage, and the whole or any part of his wages may be retained in satisfaction or on account of such liability, and he shall be liable to imprisonment for a period of not more than twelve months.

APPENDIX C

Alaska Net Income Tax Act—L. 1949, c. 115, eff. 3-26-49, §8.

B. Every employer making payment of wages or salaries shall deduct and withhold a tax in the amount of 10 per cent of the tax deducted and withheld under the provisions of subchapter (D), Chapter 9 of the Internal Revenue Code. Every employer making a deduction and withholding as outlined above, shall furnish to the employee upon request a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the Tax Commissioner.

D. Every employer making payments of wages or salaries earned in Alaska, regardless of the place where such payment is made:

(1) shall be liable for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount of any such payment; and

(2) must make return of and pay to the tax commissioner quarterly, or at such other times as the tax commissioner may allow, the amount of tax levied which, under the provisions of this act, he is required to deduct and withhold. Upon failure of the employer to comply with the provisions of this paragraph, the provisions of Section 11 of this act shall apply.

E. If the employer is the United States or the territory or a political subdivision thereof, or an agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and with-

held upon any wages or salaries may be made by any officer of said employer having control of the payment of such wages or salaries or appropriately designated for that purpose.

§12.

A. Any tax due and unpaid under this act, and all increases and penalties thereon, shall constitute a debt to the Territory of Alaska and may be collected by lien foreclosure or other court proceedings in the same manner as any other debt in like amount, which remedies shall be in addition to any and all other existing remedies.

APPENDIX D

Oregon Laws 1947, Chap. 536, §110-1620a.

1. Every employer at the time of the payment of wages, salary, bonus or other emolument to any employe shall deduct and retain therefrom an amount equal to 1 per cent of the total amount of such wages, salary, bonus, or other emolument computed without deduction for any amount withheld, and shall, quarterly, on or before the thirtieth day of April, July, October and January pay over to the commission the amount so deducted and retained from wages, salary, bonus or other emolument paid to any employe during the preceding three months. Every amount so paid over shall be accounted for as part of the collections under this chapter. No employe shall have any right of action against his employer in respect of any moneys deducted from his wages and paid over in compliance or intended compliance with this section.

APPENDIX E

26 U.S.C.A. §1606.

(f) The legislature of any State in which a person maintains the operating office, from which the operations of an American vessel operating on navigable waters within or within and without the United States are ordinarily and regularly supervised, managed, directed and controlled, may require such person and the officers and members of the crew of such vessel to make contributions to its unemployment fund under its State unemployment compensation law approved by the Federal Security Administrator (or approved by the Social Security Board prior to July 16, 1946) under section 1603 and otherwise to comply with its unemployment compensation law with respect to the service performed by an officer or member of the crew on or in connection with such vessel to the same extent and with the same effect as though such service was performed entirely within such State. Such person and the officers and members of the crew of such vessel shall not be required to make contributions, with respect to such service, to the unemployment fund of any other State. The permission granted by this subsection is subject to the condition that such service shall be treated, for purposes of wage credits given employees, like other service subject to such State unemployment compensation law performed for such person in such State, and also subject to the same limitation, with respect to contributions required

from such person and from the officers and members of the crew of such vessel, as is imposed by the second sentence (other than clause (2) thereof) of subsection (b) of this section with respect to contributions required from instrumentalities of the United States and from individuals in their employ.

